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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/736,716	12/16/2003	Richard H. Sandler	20003/10003	3562

34431 7590 01/25/2005

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EXAMINER

SCHWARTZ, JORDAN MARC

ART UNIT PAPER NUMBER

2873

DATE MAILED: 01/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/736,716

Applicant(s)

SANDLER ET AL.

Examiner

Jordan M. Schwartz

Art Unit

2873

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Legerton et al patent number 5,662,706.

Legerton et al reads on this claim by disclosing the limitations therein including the following: an apparatus comprising a lens-shaped body (abstract); comprising first and second regions (Figure 1 re the center aperture region as the first region and the annular mask region as the second region); the second region having a lower light transmission than the first region (Figure 1, column 2, line 58 re a center aperture will transmit more light than the annular mask region); a portion of the second region configured to reduce a retinal distortion (column 2, line 64). Specifically, Legerton discloses the aperture sized to reduce distortions which would inherently include retinal distortion since the imaging is occurring on the eye retina. Furthermore, since the aperture size is inherently determined by the structure of the mask then if the aperture is sized to reduce distortions, the mask will inherently be configured to reduce the distortions.

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Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Hoffman patent number 5,617,154.

Hoffman reads on this claim by disclosing the limitations therein including the following: an apparatus comprising a lens-shaped body (abstract); comprising first and second regions (Figure 12, column 14, lines 19-67 re the outer peripheral portion of the lens as the first region and the central tinted portion as the second region); the second region having a lower light transmission than the first region (column 14, lines 19-67); a portion of the second region configured to reduce a retinal distortion (column 1, lines 15-52, column 14, line 52, column 15, line 15). Specifically, as stated in applicant's specification, retinal distortion may be due to retinal damage so therefore a lens that reduces retinal damage will inherently reduce retinal distortion. Hoffman discloses the central portion configured to reduce retinal damage (column 1, lines 15-52, column 14, line 52, column 15, line 15) so therefore the central region will inherently be configured to reduce retinal distortion.

Prior art Citations

Lipshitz publication number 2003/0187502, Maurer et al patent number 5,182,588, Chow et al patent number 2003/0028225, and Terry et al patent number 6,280,469 are being cited herein to show additional references that would have read on claim 1, however, such rejection would have been repetitive.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jordan M. Schwartz whose telephone number

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is (571) 272-2337. The examiner can normally be reached on Monday to Friday (8:00-5:30), alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Georgia Y. Epps can be reached at (571) 272-2328. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'JMS', with a large, stylized loop at the end.

Jordan M. Schwartz
Primary Examiner
Art Unit 2873
January 21, 2005